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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,500	01/23/2007	Serge Saadoun	1013-003	1718
47654 7590 08/03/2010 BAINWOOD HUANG & ASSOCIATES LLC 2 CONNECTOR ROAD WESTBOROUGH, MA 01581				
EXAMINER ATKISSON, JIANYING CUI				
ART UNIT		PAPER NUMBER		
3742				
MAIL DATE		DELIVERY MODE		
08/03/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/578,500

Applicant(s)

SAADOUN, SERGE

Examiner

JIANYING ATKISSON

Art Unit

3742

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-23 and 25-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-23 and 25-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/21/10 has been entered.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15-23, 24-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 15, 29 recite the limitation "**the bag**", "**the heater plate**". It is not clear if the bag refers to the heater bag. There is insufficient antecedent basis for these limitations in the claim.

Claims 16-23, 25-28, 30-31 are rejected since they are dependent on claim 15 or 29.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 15-16, 18, 21, 23, 26, 28-31, insofar as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Schirico (US 4,806,736), in view of Von Arx et al (US 6,519,835), hereafter Von.

Regarding claims 15, 16, 29, the phrase "the bag suitable for use in complete safety for quickly warming bakery products until a temperature between 36°C and 44°C starting from a lower ambient temperature while fully conserving the quality and the integrity of these products and simultaneously improving their flavor" is intended use, and Schirico teaches a bag suitable for such use.

Schirico teaches a heater bag for bakery products made using a flour-based dough (pizza), the bag comprising a flexible or semi-rigid casing defining a bottom (flexible bag 12, bottom panel 14), side walls (side panels 15, 16); an opening (panel 16 can be open), and means for selectively closing the opening (col. 3, lines 29-36), wherein the heater bag includes at least one semi-flexible heater plate (heating element 32) having an electrical heater element incorporated therein (flexible resistor 34) and the heater plate being inserted in a pocket (depression 31); said pocket constituting a portion of the bottom, and the heating power for the heating element is about 3 watts per in², or about 0.46 watts per cm² (col. 3, line 59).

Though the heating power taught by Schirico does not lie in the range of 0.13 W to 0.24 W per cm², or 0.16 W to 0.20 W per cm² however since the temperature rising

inside the heating back depends on the heating power, thus it would have been obvious to a person of ordinary skill in the art at the time the invention was made to choose an appropriate heating power range for the heating element according to the content of the bag and the desired target temperature and rising time.

Schirico teaches that the bag is made of heavy fabric (col. 3, lines 24-25), but does not explicitly disclose that the pocket is made of natural material comprising cotton, flax, and wool.

In the same field of endeavor of semi-rigid heating element for heating bags, Von teaches that the supporting material for the heating wires can be natural material comprising cotton, and wool (col. 6, lines 14-16) for different thickness, porosity etc..

Thus it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use natural materials such as cotton, wool, etc for supporting the heating element of Schirico to achieve different thickness, porosity, chemistry characteristics.

Regarding claim 18, Schirico further teaches that the power supply voltage for the heater element of each heater plate lies in the range of 100 V to 240 V (col. 4, line 1).

Regarding claim 21, 30, Schirico further teaches that each semi-flexible heater plate comprises an electrical resistance wire (34) integrated in a sheet (Fig. 4, 33) that is inserted in sheets of silicone glass fabric (32, silicone rubber).

Regarding claim 23, Schirico also teaches the means for selectively closing the opening are constituted by a simple flexible flap or by closure means disposed in the vicinity of the rim of the opening (Col. 3, lines 32-36).

Schirico does not teach the bag is elongate in shape, however it would have been obvious to a person of ordinary skill in the art at the time the invention was made to make the bag of different shapes according to the shapes of the food to be heated in the bag.

Regarding claim 26, Schirico also teaches that the heater bag further comprises a temperature limiter (thermostat 36) integrated in each heater plate.

Regarding claims 28, 31, Schirico also teaches that each semi-flexible heater plate is removable relative to the pocket in which it is inserted (col. 3, lines 50-54, the heating element is a separate unit).

4. Claim 22, insofar as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Schirico (US 4,806,736), in view of Von Arx et al (US 6,519,835), hereafter Von, and further in view of Macy (US 2,021,458).

Regarding claim 22, Schirico in view of Von teaches the limitations of claim 15, but does not teach that each pocket incorporating a semi-flexible heater plate comprises firstly an outer cotton lining and a flannelette disposed between the outer cotton lining and said heater plate, and secondly an inner cotton lining placed on the inside relative to said heater plate.

In the same field of endeavor of heating pad, Macy teaches a heating pad incorporating a semi-flexible heater plate (Fig. 2, 11) comprises firstly an outer cotton lining and a flannelette (cotton felting 9) disposed between the outer cotton lining and said heater plate, and secondly an inner wool lining placed on the inside relative to said heater plate.

Thus it would have been obvious to a person of ordinary skill in the art at the time the invention was made to embed the heating element 32 of Schirico in a cotton felting instead of the fiberglass as an alternative for insulation, and encase the heating element in cotton/wool or cotton/cotton outer/inner liners for different thickness and porosity purposes.

5. Claims 17, 19-20, 27, insofar as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Schirico (US 4,806,736), in view of Von Arx et al (US 6,519,835), hereafter Von, and further in view of Forrester et al. (US 6,281,477), hereafter Forrester.

Regarding claim 17, Schirico in view of Von teaches the limitations of claim 15, but does not teach that the heater bag includes first and second semi-flexible heater plates, each having a heater element incorporated therein and the heater plates being inserted in pockets of natural material constituting a portion of the bottom of the side walls, or of the means for closing the bag.

In the same field of endeavor of heated delivering bag, Forrester teaches a heater bag includes first and second semi-flexible heater plates (168 in pocket 142,

144), each having a heater element incorporated therein (Col. 7, lines 52-55) and the heater plates being inserted in pockets constituting a portion of the bottom of the side walls, or of the means for closing the bag (Col. 6, lines 43-48).

Thus it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include additional heating element on the top or side panels so that more heating power can be provided at the same time to heat the contents of the bag faster.

Regarding claim 19, Forrester also teaches that the first and second heater plates are incorporated in two opposite portions of the side walls (Fig. 1, pocket 142, 144).

Regarding claim 20, Forrester also teaches that the first and second heater plates are incorporated firstly in the bottom of the bag and secondly in the means for selectively closing the opening (Col. 6, lines 43-48).

Regarding claim 27, Forrester also teaches that the heater bag includes a pair of semi-flexible heater plates disposed in two opposite main faces of the bag (Fig. 1, face 104 and 106), and wherein the walls uniting these opposite main faces present a capacity for deformation in a direction perpendicular to said opposite main faces (Col. 6, lines 60-64, walls 110 and 112 are deformable since they are made of fabric).

6. Claim 25, insofar as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Schirico (US 4,806,736), in view of Von Arx et al (US 6,519,835),

hereafter Von, and further in view of Kochman et al. (US Patent No. 6,563,094), hereafter Kochman.

Regarding claim 25, Schirico in view of Von teaches the limitations of claim 15, but does not teach that the heater bag includes a switch for selectively connecting the heater elements in series for powering from a power supply at a first nominal voltage V_{N1} , or in parallel for powering from a power supply at a second nominal voltage V_{N2} equal to half the first nominal voltage V_{N1} .

In the same field of soft heaters, Kochman teaches a heater that includes a switch (10 and 10') for selectively connecting the heater elements in series for powering from a power supply at a first nominal voltage V_{N1} , or in parallel for powering from a power supply at a second nominal voltage V_{N2} equal to half the first nominal voltage V_{N1} (Col. 4, lines 61-64, since the heater is designed for a variety of input voltages, thus it can be powered by a nominal voltage V_{N1} and V_{N2} , Where $V_{N2}=1/2 V_{N1}$).

Thus it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate such a switch in Schirico so that the heating bag can be used in both power supply with 110 or 220 voltages.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JIANYING ATKISSON whose telephone number is (571)270-7740. The examiner can normally be reached on Mon-Friday. 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on (571)-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JIANYING ATKISSON/
Examiner, Art Unit 3742
7/29/10
/TU B HOANG/
Supervisory Patent Examiner, Art Unit 3742